United Nations CAT/C/CHL/CO/6

# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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**Committee against Torture**

## Concluding observations on the sixth periodic report of Chile*

1. The Committee against Torture considered the sixth periodic report of Chile (CAT/C/CHL/6) at its 1665th and 1667th meetings, held on 30 and 31 July 2018 (see CAT/C/SR.1665 and 1667), and adopted the present concluding observations at its 1678th and 1679th meetings, held on 9 August 2018.

### A. Introduction

2. The Committee would like to express its appreciation to the State party for agreeing to follow the optional reporting procedure, as this allows for a more focused dialogue between the State party and the Committee. However, the Committee regrets that the periodic report was submitted more than three years late.

3. The Committee appreciates the constructive dialogue held with the State party's delegation and the additional information provided during the consideration of the report.

### B. Positive aspects

4. The Committee welcomes the State party's ratification of or accession to the following international human rights instruments since the consideration of its fifth periodic report in May 2009:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 8 December 2009;

(b) The Convention relating to the Status of Stateless Persons, on 11 April 2018;

(c) The Convention on the Reduction of Statelessness, on 11 April 2018.

5. The Committee welcomes the following legislative measures taken by the State party in areas related to the Convention:

(a) The promulgation, on 11 November 2016, of Act No. 20968, which criminalizes torture, aggravated torture and cruel, inhuman and degrading treatment;

(b) The promulgation, on 26 June 2009, of Act No. 20357, which criminalizes crimes against humanity, genocide and war crimes;

(c) The promulgation, on 24 November 2009, of Act No. 20405 on the establishment of the advisory commission on the classification of disappeared detainees,

* Adopted by the Committee at its sixty-fourth session (23 July–10 August 2018).

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victims of political executions and victims of political imprisonment and torture between 11 September 1973 and 11 March 1990;

(d) The promulgation, on 24 November 2009, of the aforementioned Act No. 20405, which also provides for the establishment of the National Human Rights Institute;

(e) The promulgation, on 14 December 2010, of Act No. 20480, which introduces the offence of femicide and amends provisions on parricide;

(f) The promulgation, on 13 June 2012, of Act No. 20603 amending Act No. 18216 of 1983, which establishes alternatives to deprivation or restriction of liberty;

(g) The promulgation, on 29 May 2017, of Act No. 21013, which criminalizes the ill-treatment of minors under 18 years old, older persons and persons with disabilities;

(h) The promulgation, on 14 September 2017, of Act No. 21030, which decriminalizes abortion when the mother's life is at risk, the fetus is not viable or the pregnancy results from rape;

(i) The promulgation, on 22 January 2018, of Act No. 21067 and, on 12 April 2018, of Act No. 21090, which provide for the establishment of the Office of the Children's Ombudsman and the Office of the Undersecretary for Children, respectively;

(j) The promulgation, on 16 December 2015, of Act No. 20885 on the establishment of the Office of the Undersecretary for Human Rights under the Ministry of Justice and Human Rights.

6. The Committee commends the State party's efforts to adjust its policies and procedures in order to afford greater protection for human rights and to apply the Convention, in particular:

(a) The adoption in 2017 of the 2018–2021 National Human Rights Plan, which includes a chapter on the prevention of torture;

(b) The adoption in 2017 of the 2014–2018 National Plan of Action on Violence against Women;

(c) The adoption in 2015 of the 2015–2018 National Plan of Action against Trafficking in Persons.

7. The Committee appreciates the State party's request of 27 June 2016 to publish the report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its visit to Chile from 4 to 13 April 2016 (CAT/OP/CHL/1).

8. Lastly, the Committee also appreciates that the State party maintains a standing invitation to the special procedure mechanisms of the Human Rights Council, which has allowed independent experts to carry out visits to the country during the reporting period.

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

9. In paragraph 28 of its previous concluding observations (CAT/C/CHL/CO/5), the Committee requested the State party to inform it of the steps taken in pursuance of recommendations whose implementation it considered a matter of priority, as contained in paragraph 12 on Amnesty Decree-Law No. 2191, paragraph 13 on allegations of torture committed by police officers, paragraph 14 on the reform of military justice, paragraph 18 on the Programme of Compensation and Comprehensive Health Care, and paragraph 25 on the right to fair and adequate reparation. The Committee appreciates the State party's replies in this regard received on 22 July 2011 under the follow-up procedure (CAT/C/CHL/CO/5/Add.1). In the light of the information provided, the Committee finds that the recommendation in above-mentioned paragraph 12 has not been implemented (see paras. 46 and 47 of the present document) and that the recommendations contained in

paragraphs 13, 14, 18 and 25 of the previous concluding observations have been partially implemented.

**Definition and criminalization of torture**

10. The Committee considers that the new characterization of the offence of torture in article 150 A of the Criminal Code, as introduced by Act No. 20968, largely reflects the content of article 1 of the Convention, although it does not address acts of torture committed for the purpose of intimidating or coercing a third party. In addition, the Committee is concerned that the fourth paragraph of article 150 A establishes the penalty of 3 years and 1 day to 5 years' imprisonment for acts of torture designed to obliterate the victim's personality or diminish his or her willpower, capacity for discernment or decision-making abilities, compared to 5 years and 1 day to 10 years' imprisonment for basic acts of torture. The Committee regrets that the State party's criminal legislation still includes a statute of limitations for the offence of torture, although there is no statute of limitations in cases where acts of torture constitute crimes against humanity (arts. 1 and 4).

11. **The Committee urges the State party to amend the characterization contained in article 150 A of the Criminal Code to explicitly include acts of torture committed for the purpose of intimidating or coercing a third party. In addition, the State party should ensure that perpetrators of torture are punished in accordance with the seriousness of the offence in keeping with article 4 (2) of the Convention. The Committee also urges the State party to repeal the statute of limitations with regard to the offence of torture.**

**Fundamental legal safeguards**

12. The Committee regrets the sparseness of information on domestic legislation regarding the safeguards and procedural rules that apply to persons deprived of their liberty, as well as on existing procedures to ensure that these safeguards and rules are respected in practice.

13. **The State party should adopt effective measures to ensure that all detainees enjoy, in law and in practice, all fundamental safeguards from the outset of their deprivation of liberty in line with international norms, in particular the rights: to legal assistance without delay; to request and obtain immediate access to an independent doctor, in addition to any medical examination that may be conducted at the authorities' behest; to be informed of the reasons for their detention and the nature of the charges against them in a language they understand; to have their detention registered; to promptly inform a relative or other person of their detention; and to be brought before a judge without delay. The State party should also ensure that video and audio recordings are made of interviews with persons deprived of their liberty and that the recordings are stored in a secure location under the supervision of the oversight mechanisms and are made available to investigators, detainees and lawyers.**

**Reform of the military justice system**

14. The Committee takes note of the 2010 change to the jurisdiction of the military courts introduced in Act No. 20477, subsequently amended in 2016 through Act No. 20968, which establishes that, under no circumstances, can civilians and minors who are victims or suspects be subject to the jurisdiction of the military courts. However, as the State party acknowledges in its periodic report, these amendments only partially address the reforms that the State should undertake with regard to military justice. According to the reports provided to the Committee, the reform of the military sector remains insufficient insofar as the jurisdiction of the military courts in criminal matters has not been limited to crimes of a strictly military nature committed by military personnel in active service, as ordered by the Inter-American Court of Human Rights in its judgment of 22 November 2005 in the case *Palamara Iribarne v. Chile*. In addition, the Committee is concerned at reports indicating that during the Act's first year in force, 12 complaints of police violence were lodged by civilians with military prosecutor's offices (arts. 2, 12 and 13).

15. **The Committee urges the State party to pursue its reform of the military justice system, in keeping with the judgment of the Inter-American Court of Human Rights in *Palamara Iribarne v. Chile*, with a view to precluding the military courts from hearing all cases of human rights violations and offences against civilians in which military personnel are involved.**

**National torture prevention mechanism**

16. While the Committee notes that the bill designating the National Human Rights Institute as the national torture prevention mechanism (Bulletin No. 11245-17) in line with article 3 of the Optional Protocol to the Convention is being processed, it regrets that the State party still does not have such a body despite having ratified the Optional Protocol in 2008 (art. 2).

17. **The Committee urges the State party to establish or designate a national torture prevention mechanism in compliance with the international obligations it has undertaken. In this connection, the Committee draws the State party's attention to the guidelines on national preventive mechanisms developed by the Subcommittee on Prevention of Torture (CAT/OP/12/5), according to which States parties should, inter alia, provide their national preventive mechanism with the necessary resources to operate effectively, ensure that it enjoys complete financial and operational autonomy when carrying out its functions and ensure the impartiality and independence of its members.**

**Counter-terrorism legislation**

18. While the Committee notes the content and current status of the bill to amend the counter-terrorism law (Bulletin No. 9692-07, merged with Bulletin No. 9669-07), it is concerned at the breadth and vagueness of the characterization of terrorism offences contained in Act No. 18314 of 16 May 1984, as amended in 2010 through Act No. 20467. It is also concerned at the limited fundamental safeguards and procedural guarantees provided for in Act No. 18314, such as the possibility to extend for up to 10 days the deadline for bringing a detainee before a judge and to hold accused persons in pretrial detention for protracted periods. Given the above, the Committee is particularly concerned about the cases where the Act is inappropriately applied in order to bring proceedings for terrorism against Mapuche activists charged with committing violent acts that resulted in damage to private property. In this connection, the Committee notes the information provided by the delegation regarding the enforcement of the judgment of the Inter-American Court of Human Rights of 29 May 2014 in the case *Norín Catrimán et al. v. Chile*, which set aside eight convictions in terrorism cases handed down by Chilean courts against seven members of the Mapuche people and one Mapuche rights advocate in relation to events that occurred in 2001 and 2002 in the regions of Biobío and La Araucanía (art. 2).

19. **The Committee urges the State party to review and amend its legislation to ensure that acts of terrorism are defined precisely and strictly, with a clear delimitation of the rights to be protected, and that persons deprived of their liberty who are accused of acts of terrorism enjoy basic safeguards against torture, including the right to be brought before a judge without delay. Furthermore, the State party should refrain from applying counter-terrorism legislation to persons accused solely of causing property damage in the course of demonstrations in favour of the rights of indigenous peoples, in keeping with the recommendations made by other international human rights mechanisms.**

**Coerced confessions**

20. While it notes the provisions of the Code of Criminal Procedure regarding the inadmissibility of evidence obtained in breach of fundamental safeguards, the Committee regrets that the State party has not provided any information on court decisions denying the entry into evidence of confessions obtained under torture. Regarding this type of situation, the Committee is especially concerned about the case of José Peralino Huinca, who was convicted along with two other individuals, all members of the Mapuche people, of the

2013 deaths of the Luchsinger-Mackay couple despite having reported being tortured into confessing (art. 15).

21. **The State party should take effective measures to ensure that confessions and statements obtained under torture or ill-treatment are not admitted into evidence in practice, except when they are used as evidence against a person accused of committing torture. It should also expand the training programmes for judges and prosecutors so that they can detect and effectively investigate all complaints of torture and ill-treatment and, in particular, it should strengthen institutional capacity to enable them to reject statements obtained under torture.**

**Police brutality and excessive use of force**

22. The Committee is concerned by the many cases of police brutality and excessive use of force by the security forces against demonstrators during the reporting period. It is also concerned about consistent reports of ill-treatment against detained demonstrators, of police brutality against members of the Mapuche people in the context of evictions and raids in their communities and of acts of sexual violence by the police against women and girls during student protests. According to data provided by the State party in its report, between 2010 and mid-2015, 732 alleged cases of excessive use of force by Carabineros (police) were investigated, of which 392 were referred to the courts and 137 led to disciplinary sanctions. According to the additional information provided by the delegation, in 2017 disciplinary sanctions were imposed on 34 Carabineros and a further 20 cases are being processed. The investigative police has pursued 36 administrative proceedings since 2010 (27 administrative inquiries and 9 pretrial proceedings). The Committee regrets that it has not received complete information in this regard and notes that, although the State party indicated that the administrative investigations into cases of police brutality have led to legal action, it has not provided information on the number of trials, the sentences or the criminal and/or disciplinary sanctions imposed in cases of excessive use of force during the reporting period. The Committee is further concerned that complaints of police brutality continue to be referred for preliminary investigation to units that are part of the same institution as the alleged perpetrators. Lastly, the Committee notes the succinct information provided by the State party on the investigation and subsequent trial before the military court in connection with the deaths of José Facundo Mendoza Collio and Manuel Gutiérrez (arts. 2, 12, 13 and 16).

23. **The State party should:**

(a) **Ensure that all complaints of excessive use of force by law enforcement and security personnel are subject to a prompt, impartial and effective investigation, that the alleged perpetrators are prosecuted and, if found guilty, are punished in accordance with the seriousness of their actions and that victims receive appropriate compensation;**

(b) **Ensure that an independent organization carries out prompt and impartial investigations into all complaints of excessive use of force and other forms of police brutality and that the investigators do not have an institutional or hierarchical relationship with the alleged perpetrators;**

(c) **Step up efforts to systematically provide training to all law enforcement officers on the use of force in the context of demonstrations, duly taking into account the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

(d) **Compile detailed information on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of police brutality and excessive use of force.**

**Complaints of sexual violence by the police against women and girls**

24. The Committee regrets not having received detailed information on the outcome of the investigations into acts of sexual violence committed by the police against women and girls during student protests over the course of the reporting period or on the resulting prosecutions, convictions and sentences. Nevertheless, the Committee takes note of the bill

on the right of women to a life free of violence (Bulletin No. 11077-17) and of the information provided by the State party regarding training and awareness-raising programmes designed for public servants who have direct contact with victims of gender-based violence (arts. 2, 11–14 and 16).

25. **The State party should:**

(a) **Ensure that all cases of gender-based violence against women and girls, especially those involving actions or omissions by State authorities or other entities which engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, are punished appropriately and that the victims receive redress, including adequate compensation;**

(b) **Provide mandatory training on the prosecution of gender-based violence to all justice officials and law enforcement personnel and continue awareness-raising campaigns on all forms of violence against women;**

(c) **Ensure that victims of gender-based violence receive the medical care, psychological support and legal assistance they require;**

(d) **Speed up the parliament's adoption of the bill on the right of women to a life free of violence.**

**Investigation, prosecution and punishment of acts of torture and ill-treatment**

26. According to information provided by the delegation, between January 2009 and May 2018, 1,042 court cases were brought for acts of torture and ill-treatment, 599 of which have been dismissed. However, the available statistical data does not shed light on the tangible reasons why so many cases were dismissed or on the nature of the 46 sentences handed down since 2014. In addition, the Committee notes with concern that the prison sentences imposed on the perpetrators never exceeded 3 years (arts. 2, 12, 13 and 16).

27. **The Committee urges the State party to:**

(a) **Ensure that all complaints of torture and ill-treatment are investigated in a prompt and impartial manner by an independent body;**

(b) **Ensure that the authorities automatically open an investigation wherever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed;**

(c) **Ensure that, in cases of alleged torture and/or ill-treatment, suspected perpetrators are suspended from duty immediately for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or obstruct the investigation;**

(d) **Guarantee that the alleged perpetrators are duly prosecuted and, if found guilty, receive penalties commensurate with the seriousness of their actions;**

(e) **Compile statistical data on the number of complaints, investigations, prosecutions, convictions and penalties in cases of torture and ill-treatment.**

**Detention conditions**

28. As acknowledged by the delegation, substandard detention conditions in prisons are one of the corrections system's main problems and in some situations amount to ill-treatment. Therefore, the Committee appreciates the State party's efforts to improve conditions and reduce overcrowding in detention centres, in particular by expanding and rehabilitating current facilities, building new prisons and updating legislation on alternatives to deprivation or restriction of liberty. However, the Committee remains concerned at reports of overcrowding in many prisons, especially in the Atacama, Metropolitan and Valparaíso regions. Other reports received by the Committee point to significant gaps in medical and health-care services, as well as a lack of beds, problems with the distribution of water to cells, inadequate heating and lighting and limited access to

physical exercise and other activities out of doors. The Committee also remains concerned about reports that the prison authorities do not take adequate account of the specific needs of women deprived of their liberty in terms of personal health and hygiene. Furthermore, it is concerned at complaints of arbitrary practices, in particular unnecessary body searches of both persons deprived of their liberty and their visitors. Lastly, the Committee takes note of the ongoing drafting of a law on sentence enforcement (arts. 11 and 16).

29. **The State party should:**

(a) **Step up efforts to alleviate overcrowding in detention centres, in particular by the use of alternatives to custodial sentences, and continue the work of improving existing prison facilities. In that connection, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Take urgent steps to correct deficiencies in general prison conditions, in particular with regard to the distribution of water to cells, the lack of beds, inadequate heating and lighting and limited access to physical exercise and other activities out of doors;**

(c) **Ensure that the human and material resources needed to provide prisoners with proper medical and health care are allocated;**

(d) **Ensure that the specific needs of women deprived of their liberty are addressed in keeping with the Nelson Mandela Rules and the Bangkok Rules;**

(e) **Ensure that body searches on persons deprived of their liberty are performed in a manner that respects the inmate's dignity. Invasive body searches should be conducted only when absolutely necessary and should be performed in private by an appropriately trained staff member of the same sex as the inmate. Search and admission procedures for visitors should not be degrading and should be subject, at a minimum, to the same rules as those applied to inmates (see rules 50–53 and 60 of the Nelson Mandela Rules).**

### Disciplinary practices

30. Based on the explanations of the delegation regarding the imposition of disciplinary sanctions on prisoners, under no circumstances is isolation used for extended periods and solitary confinement does not exceed 2 days, even though the Prison Regulations set a 10-day limit. Nevertheless, the Committee is concerned at reports that the cells used to isolate prisoners have poor sanitation and hygiene facilities and deficient water for washing purposes. The Committee is also concerned about article 81 (i) of the Prison Regulations, whereby the disciplinary sanctions applicable to prisoners include the prohibition of all visits and correspondence with the outside world for up to one month (arts. 11 and 16).

31. **The State party should ensure that solitary confinement is used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to authorization by a competent authority, in accordance with rules 43 to 46 of the Nelson Mandela Rules. It should also ensure that the cells used to isolate prisoners meet the requisite sanitation and hygiene standards, including with regard to the provision of water. The Committee wishes to draw the State party's attention to rule 43 (3) of the Nelson Mandela Rules, which provides that disciplinary sanctions or restrictive measures should not include the prohibition of family contact and that the means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.**

### Juvenile justice

32. While it notes the State party's efforts to improve the juvenile justice system, the Committee remains concerned at reports of ill-treatment and the imposition of collective punishments at the San Joaquín temporary detention centre for adolescents in Santiago (see CAT/OP/CHL/1, paras. 103–113). The Committee is also concerned at reports of suicides

at detention centres for minors and at the high rates of violence linked to overcrowding in these institutions (arts. 2, 11 and 16).

33. **The State party should investigate and prosecute perpetrators of ill-treatment against minors deprived of their liberty. It should also take steps to reduce overcrowding in juvenile detention centres and prevent and reduce violence among inmates. Lastly, the State party should assess the effectiveness of the suicide prevention programmes in these centres and compile detailed information in this regard.**

**Deaths in custody**

34. The Committee notes with concern the number of deaths in custody, which, according to data provided by the State party, amounted to 1,262 cases between 2010 and June 2018, and regrets not having received complete statistical data disaggregated by place of detention, sex, age, ethnic origin or nationality of the deceased and cause of death. The Committee is also concerned that, according to information provided by the delegation, between January 2013 and May 2018, 273 deaths occurred as a result of fights between inmates and that, between January 2014 and June 2018, there were 62 suicides in prisons. The State party did not provide information on the outcome of the investigations into these deaths or on the specific measures adopted to prevent similar situations from arising in future other than existing suicide prevention and prison violence reduction programmes. The Committee takes note of the information provided by the State party on the prosecution of eight prison guards in connection with the fire at the San Miguel pretrial detention centre in Santiago on 8 December 2010, in which 81 inmates were killed and 13 others were injured. All of the defendants were acquitted in a final judgment and, according to the information at the Committee's disposal, the relatives of the victims have yet to receive reparation of any kind. The Committee also regrets not having received any information on the measures taken by the State party to prevent this type of incident in future. Lastly, the Committee takes note of the information provided by the delegation on the death of Rodrigo Eduardo Donoso Jiménez from a shot to the head incurred while attempting to escape from the Talagante pretrial detention centre on 29 January 2012, according to which the disciplinary procedure initiated against the staff members concerned was discontinued and the case was provisionally suspended in September 2012 (arts. 2, 11 and 16).

35. **The Committee urges the State party to:**

(a) **Ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, duly taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death;**

(b) **Strengthen the measures to prevent and reduce violence among inmates, in particular by introducing appropriate prevention strategies that provide for this type of incident to be monitored and documented with a view to investigating all complaints and ensuring that all those responsible are held accountable;**

(c) **Investigate any potential involvement of prison guards and, where warranted, appropriately punish those responsible and award adequate reparation to the relatives;**

(d) **Ensure security in prisons by providing prison guards with the necessary training;**

(e) **Assess the effectiveness of strategies and programmes on the prevention of suicide and the identification of persons deprived of their liberty at risk of committing suicide and compile and provide the Committee with detailed data in this regard.**

**Deaths of minors and allegations of torture, ill-treatment and sexual abuse in residential protection centres belonging to the National Service for Minors network**

36. The Committee is deeply concerned at the number of recorded deaths of children and adolescents in the network of residential centres managed by the National Service for Minors and its partner agencies during the reporting period. According to information

provided by the State party, 256 minors died between January 2005 and June 2016 in facilities directly managed by the Service and in other residential facilities subsidized by the Service and operated by accredited partner agencies. While noting the State party's explanations of the ongoing investigations, the Committee regrets that it has not received data disaggregated by place of detention, sex, age and ethnic origin or nationality of the deceased minors nor data on the alleged causes of their deaths. Also of serious concern are reports indicating that staff at the centres, including medical staff, have committed acts of torture, ill-treatment and sexual abuse against minors in detention and that rates of violence among minors placed in these institutions are high. In this regard, the Committee welcomes the recent decision of the State party to publish the report on the inquiry conducted by the Committee on the Rights of the Child into the situation of children and adolescents placed in residential centres in Chile, in accordance with article 13 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (CRC/C/CHL/INQ/1) (arts. 2, 4, 12–14 and 16).

37. **The Committee urges the State party to:**

(a) **Ensure that all cases of deaths of children and adolescents placed in the network of residential centres managed by the National Service for Minors and its partner agencies are promptly and impartially investigated by an independent body;**

(b) **Ensure that all allegations of torture, ill-treatment and sexual abuse of children placed in these centres are promptly, thoroughly and impartially investigated; ensure that alleged perpetrators are prosecuted and, if found guilty, punished in a manner commensurate with the gravity of their acts; and ensure that all victims are granted adequate redress;**

(c) **Take the measures necessary to remedy any deficiencies in the administration, management and internal functioning of the centres and ensure that such acts are not repeated;**

(d) **Ensure that minors placed in residential centres receive the appropriate medical and health care and that medical staff are properly trained;**

(e) **Ensure that all residential centres managed by the National Service for Minors and its partner agencies are regularly monitored and that the recommendations made by the Committee on the Rights of the Child within the framework of its investigation are implemented;**

(f) **Ensure that the needs of children placed in residential facilities are met by ensuring that staff in such facilities receive the training that they need to perform their duties.**

### Ill-treatment of persons with disabilities and older persons

38. The Committee is concerned at reports that persons with disabilities and older persons placed in residential institutions are subjected to degrading treatment, including the frequent use of restraints, forced medication and sexual abuse. It therefore regrets that it has not received any information on investigations into these complaints (arts. 2, 12, 13 and 16).

39. **The Committee urges the State party to investigate allegations of ill-treatment of persons with disabilities and older persons in residential institutions and all cases of sudden deaths occurring in such settings.**

### Training

40. The Committee acknowledges the efforts made by the State party to develop and implement training programmes in human rights for members of the security forces (Carabineros and investigative police), Prison Service officials and the judiciary. It regrets, however, that little information is available on human rights training for members of the armed forces and no information is available on the evaluation of the effectiveness of training programmes in reducing torture and ill-treatment. The Committee notes with appreciation that training sessions on how to detect and document the physical and psychological effects of torture and ill-treatment, in accordance with the Manual on the

Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) (art. 10), have been organized by the Forensic Medical Service for the benefit of professionals (experts, doctors and psychologists) directly involved in the investigation and documentation of torture.

41. **The State party should:**

(a) **Further develop mandatory in-service training programmes to ensure that all public officials, in particular law enforcement officials, members of the armed forces, prison staff, border guards and medical personnel employed in prisons, are well acquainted with the provisions of the Convention and are fully aware that violations will not be tolerated and will be investigated, and that those responsible will be prosecuted and, upon conviction, appropriately sanctioned;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the Istanbul Protocol;**

(c) **Develop and apply a methodology for evaluating the effectiveness of educational and training programmes relating to the Convention and the Istanbul Protocol;**

(d) **Ensure that all law enforcement officers, civilian judges, military judges and public prosecutors receive mandatory training emphasizing the link between non-coercive interrogation techniques, the prohibition of torture and ill-treatment, and the obligation of the judiciary to invalidate confessions made under torture.**

**Non-refoulement**

42. The Committee considers that the period of 24 hours, from the time of notification, for filing an appeal to the Supreme Court against an expulsion decision, as provided for by Decree-Law No. 1094 of 14 July 1975, is too short. In this connection, the Committee takes note of the bill on migration and aliens (Bulletin No. 8970-06), currently under consideration, which would extend the time limit to 48 hours and transfer the consideration of appeals to the courts of appeal, sitting in final instance (art. 3).

43. **The Committee calls on the State party to adopt legislative and other measures necessary to:**

(a) **Review existing legislation on migration and aliens in order to extend the deadline for the filing of appeals against expulsion decisions;**

(b) **Ensure that, in practice, no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal, foreseeable risk of being subjected to torture;**

(c) **Guarantee that all persons in the territory or under the jurisdiction of the State party have effective access to the procedure for determining refugee status;**

(d) **Ensure that procedural safeguards against refoulement are in place and that effective remedies in respect of refoulement claims in removal proceedings are available, including reviews of rejections by an independent judicial body, in particular on appeal.**

**Trials for cases of torture and other serious human rights violations committed during the dictatorship**

44. The Committee notes with appreciation that, during the period under review, the courts continued to prosecute and convict former military personnel and State actors for committing human rights violations between 11 September 1973 and 10 March 1990. It regrets, however, that little official information on these proceedings is available, in particular on the judgments handed down, the sentences imposed on the perpetrators and the time actually served. According to the information provided by the State party delegation, there are currently a total of 1,287 open cases of human rights violations committed during the dictatorship, of which 536 relate to extrajudicial executions, 212 to

enforced disappearances and 539 to acts of torture or ill-treatment. The Committee also notes the information provided by the delegation on the ongoing criminal proceedings in connection with human rights violations committed under Operation Condor (arts. 12, 13 and 14).

45. **The Committee urges the State party to continue prosecuting cases of human rights violations that occurred during the dictatorship and to ensure that the perpetrators of these crimes are sentenced in accordance with the gravity of their acts and that the sentences imposed on them are effectively enforced. The State party should also step up its efforts to systematically collect data on progress made in investigating cases of torture and other serious human rights violations committed during the dictatorship, including those committed under Operation Condor.**

### Amnesty Decree-Law No. 2191

46. The Committee remains concerned at the fact that Amnesty Decree-Law No. 2191 of 18 April 1978 remains in force, despite the delegation's explanation that it is not applied in judicial practice. While noting the content of the bill (Bulletin No. 4162-07) providing for the annulment of this law and the constitutional reform promoted by the Government to prevent the use of amnesty laws in judicial proceedings concerning past human rights violations (Bulletin Nos. 9748-07 and 9773-07), the Committee regrets that no significant progress has yet been made in the consideration of these reforms (art. 2).

47. **The Committee reiterates the recommendation contained in its previous concluding observations (see CAT/C/CHL/CO/5, para. 12), in which it urged the State party to abrogate Amnesty Decree-Law No. 2191. The State party should also ensure that its laws preclude any possibility of granting amnesty to any person convicted of the crime of torture or any kind of pardon that violates the Convention.**

### National Commission on Political Prisoners and Torture

48. The Committee regrets the continued validity of article 15 of Act No. 19992 of 17 December 2004, which provides that documents, witness accounts and records submitted to the National Commission on Political Prisoners and Torture by victims of human rights violations committed during the dictatorship should remain classified for 50 years, without prejudice to the right of the holders of such documents and statements to disclose or submit them to third parties of their own free will. While noting the content of the bill (Bulletin No. 10883-07) amending the provisions of Act No. 19992 that regulate the handling of the information gathered by this Commission, the Committee notes that no significant progress has been made in the consideration of this bill since October 2017 (arts. 12–14).

49. **The Committee reiterates the recommendation made in its previous concluding observations (see CAT/C/CHL/CO/5, para. 19), in which it urged the State party to repeal the provisions contained in Act No. 19992 under which documents, witness accounts and records submitted to the National Commission on Political Prisoners and Torture by victims of torture and other serious human rights violations during the dictatorship are to remain classified for 50 years.**

### Advisory Commission for the Recognition of Disappeared and Executed Political Prisoners and the Victims of Political Imprisonment and Torture

50. The Committee welcomes the efforts made by the Advisory Commission to recognize the status of political prisoners who disappeared or were executed and the victims of political imprisonment and torture committed between 11 September 1973 and 11 March 1990. Through those efforts, 9,795 new cases of political imprisonment and torture and a further 30 cases of enforced disappearance and/or extrajudicial killing have been recognized. However, the Committee is concerned at reports indicating that persons who testified before this body but were ultimately not recognized as victims were unable to appeal the decision and were not informed of the determining criteria used. The Committee also considers that the initial six-month period for the receipt of testimonies and requests for compensation by the Advisory Commission was too short, despite the fact that, under

article 1 of Act No. 20496 of 25 January 2011 (arts. 12–14), it was extended for six months until 17 August 2011.

51. **Taking into account the short time frame for the submission of testimonies and requests for redress to the Advisory Commission, the Committee encourages the State party to consider establishing a permanent mechanism for the identification and recognition of victims of human rights violations committed during the dictatorship.**

**Redress**

52. The Committee notes with concern that, despite its repeated requests, the State party has not submitted detailed information on redress and compensation measures, including means of rehabilitation, ordered by the courts and provided to the victims of torture or their families during the reporting period. With regard to the Compensation and Comprehensive Health-Care Programme, while the Committee appreciates the clarifications provided by the delegation on the coverage that the Programme provides to victims of acts of torture committed during the dictatorship, the Committee remains concerned at reports that the Programme is underfunded, that staff turnover is excessively high, that staff lack training and that the services and benefits need to be improved and expanded in view of the fact that beneficiaries of the Programme are gradually ageing. Lastly, the Committee notes the reasons given by the current Government for the withdrawal of the bill on redress for victims of political imprisonment and torture (art. 14).

53. **The Committee draws the State party's attention to its general comment No. 3 (2012) on the implementation of article 14 by States parties, in which it elaborates on the nature and scope of their obligations under the Convention to provide full redress to victims of torture. In particular, the State party should:**

(a) **Ensure that all victims of torture and ill-treatment, including those who currently live outside Chile, obtain redress, including an enforceable right to fair and adequate compensation and the means for as full rehabilitation as possible;**

(b) **Ensure that the effectiveness of rehabilitation programmes for victims of torture is continuously monitored and evaluated and that data on the number of victims and their specific rehabilitation needs are collected;**

(c) **Ensure that the Compensation and Comprehensive Health-Care Programme has properly trained specialized staff and the necessary material resources for it to operate effectively, and ensure that consideration is given to the possibility of expanding its benefits and services;**

(d) **Continue making progress in the adoption of legislative and other measures necessary to ensure that all victims of torture under the dictatorship obtain redress, including an enforceable right to fair and adequate compensation and the means for as full rehabilitation as possible.**

**Trafficking in persons**

54. While noting that the offences of smuggling of migrants and trafficking in persons have been established under Act No. 20507 of 1 April 2011, the Committee notes with concern that the criminal offence of trafficking in persons, set out in article 411 quater of the Criminal Code, does not include acts of trafficking for the purpose of labour exploitation (art. 2).

55. **The Committee urges the State party to review its criminal legislation on trafficking in persons so as to bring it into line with international standards, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.**

**Follow-up procedure**

56. **The Committee requests that the State party provide, by 10 August 2019, information on the follow-up given to the Committee's recommendation on**

**establishing or appointing a national mechanism for the prevention of torture; its recommendation on the deaths of minors and allegations of torture; its recommendation on ill-treatment and sexual abuse in residential protection centres belonging to the National Service for Minors network; and its recommendation on the ill-treatment of persons with disabilities and older persons (see paras. 17, 37 (a) and (b) and 39). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations contained in the concluding observations.**

**Other issues**

57. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, to all the organs of the State party, including the relevant authorities, and also through official websites, the media and non-governmental organizations.**

58. **The Committee invites the State party to submit its next report, which will be its seventh, by 10 August 2022. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its seventh periodic report under article 19 of the Convention.**